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May 26, 2023

VIA ELECTRONIC FILING

The Honorable Alvin K. Hellerstein
United States District Court
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
5000 Pearl St.
New York, NY 10007

Re: Johnson v. Musk, et al., Case No. 1:22-cv-05037

Dear Judge Hellerstein:

We represent Defendants Elon Musk and Tesla, Inc. (collectively, the “Tesla Defendants,” and, together with the Dogecoin Foundation, Inc. (“Defendants”)) in the above-referenced action. On March 31, 2023, Defendants moved to dismiss Plaintiffs’ Second Amended Complaint. Dkt. 61. Plaintiffs’ opposition to Defendants’ motions to dismiss is due on May 31, 2023. Dkt. 53. On May 23, 2023, one week before Plaintiffs’ opposition is due, and nearly two months after Defendants first moved to dismiss, Plaintiffs asked Defendants to consent to Plaintiffs’ motion for leave to file a Third Amended Complaint (Plaintiffs’ fourth attempt to plead a claim in this Action) and to a stay of Plaintiffs’ time to respond to Defendants’ motions to dismiss until this Court decides Plaintiffs’ motion for leave.

The Tesla Defendants do not consent to Plaintiffs’ request to stay Plaintiffs’ time to respond to their motion to dismiss, and informed Plaintiffs of their position on May 25, 2023. Among other reasons, the Tesla Defendants oppose Plaintiffs’ motion for leave to amend the complaint for a third time and do not believe that motion will be successful. Further, Plaintiffs have told the Tesla Defendants that Plaintiffs are prepared to file their opposition to the motions to dismiss on time, so there is no grounds for a stay, much less any prejudice to Plaintiffs.

On May 26, 2023, Plaintiffs filed their stay motion, styled as an “Emergency Motion to Stay Briefing Schedule for Defendants’ Motions to Dismiss,” unilaterally selecting a return date of May 30, 2023 for Defendants’ opposition to Plaintiffs’ motion to stay. Dkt. 65.

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Pursuant to Local Rule 6.1(b), the Tesla Defendants intend to respond to Plaintiffs' motion to stay within 14 days, on or before by June 9, 2023. To the extent this Court is inclined to treat Plaintiffs' stay motion as an emergency—which, given Plaintiffs' delay in filing and failure to reference any emergency in the substance of their submission, it plainly is not—the Tesla Defendants respectfully request that the Court set an appropriate briefing schedule for the motion to stay.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. Heaton", with a large, elegant loop at the end.

Sarah Heaton Concannon